

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

SEAGEN, INC.,

§

*Plaintiff*

§

v.

DAIICHI SANKYO CO., LTD.,

§ Case No. 2:20-cv-00337-JRG

*Defendant,*

§

ASTRAZENECA  
PHARMACEUTICALS LP and  
ASTRAZENECA UK LTD,

§  
§  
§  
§  
§

*Intervenor-Defendants.*

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MINUTES FOR PRETRIAL CONFERENCE – DAY 1  
HELD BEFORE U. S. DISTRICT JUDGE RODNEY GILSTRAP  
February 24, 2022

OPEN: 08:58 AM

ADJOURN: 03:44 PM

ATTORNEYS FOR PLAINTIFF: See attached

ATTORNEYS FOR DEFENDANT: See attached.

ATTORNEYS FOR INTERVENORS: See attached

LAW CLERK: Jim Lomeo

COURT REPORTER: Shawn McRoberts, RMR, CRR

COURTROOM DEPUTY: Andrea Brunson, CP

<u>TIME</u>	<u>MINUTES</u>
08:58 AM	Court opened.
08:59 AM	Court called for announcements from counsel.

TIME	MINUTES
09:00 AM	Court provided instructions and housekeeping matters to the parties. A second day of pretrial conference will be held tomorrow, February 25, 2022. Case is scheduled for jury selection and trial on Monday, April 4, 2022. Trial will begin following empanelment of jury. Eight jurors will be selected. Peremptory strikes: Four per side. Counsel will be given 30 minutes per side for <i>voir dire</i> . The parties will be given 11-1/2 hours per side for the jury trial portion. Opening will be 30 minutes per side. Closings will be 40 minutes per side. Court to be notified by 10:00 PM each night of disputes/objections not resolved through meet and confer efforts. Three (3) jointly prepared three-ring binders with disputed information are to be submitted to the Court by 7:00 AM the following day. The Court will be available in chambers by 7:30 AM every morning to take up any housekeeping matters or late-arriving disputes that might come up during trial. Deposition-clip objections and/or disputes are to be taken up by the Court the day before the day such deposition is to be used. Court encouraged the parties to utilize the meet and confer process during the course of the trial to resolve disputes. It is the Court's intention to bring the jury in every morning at 8:30 AM. Lunch will be brought in daily for the jurors. Rule 50(a) motions will be heard by the Court after all the evidence is in and Plaintiff rests any rebuttal case. Court will hold an informal charge conference (off the record) after the close of evidence. Formal charge conference will follow thereafter and on the record. Court instructed counsel not to refer to individuals by their first names, and to advise their respective witnesses re: same. Counsel instructed counsel to refer to the Court's Standing Order re: the sealing of the courtroom re: confidential or highly sensitive testimony. Court instructed the parties to follow the instructions from Deputy Clerk in Charge, Mrs. Kecia Clendening re: receipt, review and return of the Juror Questionnaires. Parties to be prepared every morning of trial to read into the record those exhibits used prior day. Twelve juror notebooks to be delivered to chambers no later than 12:00 noon on Monday, March 28, 2022. Notebooks to contain: Complete copies of each patent-in-suit (single-sided); claim construction chart (single-sided); page for each witness with a head and shoulder photograph, name and ruled lines for notetaking; three-hole punch notepad for further notes and a non-clicking pen. Each witness page should be tabbed for easy navigation. A reminder that expert witnesses are confined to the four corners of their report.
09:21 AM	Court provided additional instructions and information re: public health protocols and provisions to be implemented during jury selection and trial.
09:28 AM	Court proceeded with hearing argument re: disputed dispositive motions:
09:29 AM	[SEALED] Defendant Daiichi Sankyo Company, Limited and Intervenor-Defendants' AstraZeneca Pharmaceuticals LP and AstraZeneca UK Ltd.'s Motion for Summary Judgment of Anticipation (Dkt. No. 255).
09:29 AM	Mr. Berl presented argument for AstraZeneca Intervenor-Defendants.
09:51 AM	Responsive argument by Mr. Chivvis for the Plaintiff.
10:11 AM	Rebuttal argument presented by Mr. Berl for AstraZeneca Intervenor-Defendants.
10:16 AM	Additional responsive argument by Mr. Chivvis for the Plaintiff.
10:17 AM	Court DENIED Dkt. No. 255.
10:18 AM	Court heard argument re: [SEALED] Seagen's Motion to Strike Portions of the Expert Reports of John M. Lambert (Dkt. No. 252).

TIME	MINUTES
10:18 AM	Mr. Chivvis presented argument for the Plaintiff.
10:39 AM	Responsive argument by Ms. Kayali for AstraZeneca Intervenor-Defendants.
10:51 AM	Rebuttal argument presented by Mr. Chivvis for the Plaintiff.
10:54 AM	Court GRANTED-IN-PART and DENIED-IN-PART Dkt. No. 252 with additional explanation as set forth in the record.
10:58 AM	Recess.
11:12 AM	Court reconvened.
11:12 AM	Court heard argument re: [SEALED] Seagen's Motion to Strike the Second Expert Report of David Manspeizer and Any Reliance Thereon by DSC Witnesses (Dkt. No. 253).
11:13 AM	Mr. Jacobs for the Plaintiff submitted argument upon its briefing.
11:13 AM	Responsive argument by Mr. Kressel for Daiichi Defendant.
11:16 AM	Court GRANTED Dkt. No. 253 to include additional instruction and exclusion as set forth in the record.
11:18 AM	Court heard argument re: [SEALED] Seagen's Renewed Motion for Sanctions (Dkt. No. 267).
11:18 AM	Mr. Jacobs presented argument for the Plaintiff.
11:24 AM	Responsive argument by Mr. Ratliff for Daiichi Defendant.
11:33 AM	Rebuttal argument presented by Mr. Jacobs for the Plaintiff.
11:34 AM	Additional responsive argument by Mr. Ratliff for Daiichi Defendant.
11:35 AM	Court GRANTED-IN-PART and DENIED-IN-PART Dkt. No. 267 with instructions set forth in the record.
11:38 AM	Court heard argument re: [SEALED] Daiichi Sankyo Company Limited's Motion for Sanctions Against Seagen, Inc. for Violations of the Court's Discovery Order and Protective Order (Dkt. No. 308) and [SEALED] Plaintiff Seagen's Motion for Leave to Use Certain Documents Produced by Daiichi Sankyo Co., Ltd. in Co-Pending Proceeding (Dkt. No. 262).
11:38 AM	Mr. Ratliff presented argument for the Daiichi Defendant.
11:46 AM	Responsive argument by Mr. Jacobs for the Plaintiff.
11:50 AM	Rebuttal argument presented by Mr. Ratliff for the Daiichi Defendant.
11:53 AM	Court DENIED Dkt. No. 308 and DENIED as moot Dkt. No. 262.
11:56 AM	Conclusion of argument re: dispositive motions.
11:56 AM	Recess for lunch.
01:39 PM	Court reconvened.
01:39 PM	Court to take-up MILs.
01:39 PM	Court acknowledged the parties' meet and confer efforts during the lunch recess. Court GRANTED by agreement reflected in Dkt. No. 315 and Dkt. No. 325.
01:42 PM	Ms. Gao recited into the record parties' agreement re: disputed MILs.

TIME	MINUTES
01:43 PM	Plaintiff's MIL 3: GRANTED by agreement. Plaintiff's MIL 4: DENIED as moot. Plaintiff's MIL 7: GRANTED to the extent recited into the record. Plaintiff's MIL 8: GRANTED to the extent and agreement recited into the record. Plaintiff's MIL 10: DENIED as moot Defendants' MIL 10: Withdrawn by agreement of the parties. Defendants' MIL 14: GRANTED by agreement of the parties.
01:49 PM	Court proceeded to hear argument re: parties' remaining objections to MILs.
01:49 PM	Plaintiff's MIL 1: No argument presented. Court ruling: Plaintiff's MIL 1: DENIED
01:49 PM	Plaintiff's MIL 2: Argument presented.
01:55 PM	Court ruling: Plaintiff's MIL 2: DENIED with instructions and guidance provided and set forth in the record.
01:55 PM	Plaintiff's MIL 5: DENIED as moot per the parties' agreement
01:56 PM	Plaintiff's MIL 6: Argument presented.
02:04 PM	Court ruling: Plaintiff's MIL 6: DENIED.
02:05 PM	Plaintiff's MIL 9: Argument presented.
02:10 PM	Court ruling: Plaintiff's MIL 9: GRANTED with instructions and limitations set forth in the record.
02:12 PM	Defendants' MIL 1, 2, 3 and 4: Argument presented.
02:47 PM	Court ruling: Defendants' MIL 1: GRANTED to include instructions and limitations set forth in the record. Defendants' MIL 2: DENIED with instructions and limitations set forth in the record. Defendants' MIL 3: GRANTED with instructions and limitations set forth in the record. Defendants' MIL 4: DENIED.
02:59 PM	Defendants' MIL 5: Argument presented.
03:01 PM	Court ruling: Defendants' MIL 5: GRANTED with instructions set forth in the record.
03:03 PM	Defendants' MIL 6 and MIL 7: Argument presented.
03:10 PM	Court ruling: Defendants' MIL 6 and MIL 7: GRANTED-IN-PART and DENIED-IN-PART to include instructions set forth in the record.
03:12 PM	Defendants' MIL 8: Argument presented.
03:17 PM	Court ruling: Defendants' MIL 8: DENIED.
03:18 PM	Defendants' MIL 9: Argument presented.
03:20 PM	Court ruling: Defendants' MIL 9: GRANTED and mutual to both sides.
03:24 PM	Defendants' MIL 11: DENIED as moot.
03:24 PM	Defendants' MIL 12: Argument presented.

<u>TIME</u>	<u>MINUTES</u>
03:31 PM	Court ruling: Defendants' MIL 12: DENIED-IN-PART and GRANTED-IN-PART with instructions set forth in the record.
03:35 PM	Defendants' MIL 13: Argument presented.
03:36 PM	Court ruling: Defendants' MIL 13: DENIED with instructions set forth in the record.
03:38 PM	Defendants' MIL 15 and MIL 16: DENIED as moot.
03:38 PM	Conclusion of argument re: MILs.
03:41 PM	Court instructed the parties to continue their meet and confer efforts re: outstanding exhibit disputes for pre-admission. A second day of pretrial conference will begin at 9:00 AM tomorrow. Court instructed the parties to file a joint report by 10:00 PM tonight re: remaining exhibit disputes.
03:44 PM	Court adjourned.